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DEPARTMENT

Injunction and Abatement Law

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PURPOSE OF THE AMERICAN VIGILANCE ASSOCIATION

The purpose of this Association shall be to suppress and prevent commercialized vice, and to promote the highest standard of public and private morals. To accomplish this purpose, the Association shall strive for the constant, persistent and absolute repression of prostitution and the passage and enforcement of laws for the rescue and protection of girls and women, for the promotion of knowledge of the social evil, its effects and results and for the circulation of the best literature regarding it.

Injunction and Abatement Law

PREFACE.

The Injunction and Abatement Law here presented and discussed was enacted originally in the State of Iowa in July, 1909. Nebraska adopted a similar act in April, 1911, and Utah, Oregon, Washington, Minnesota, California, South Dakota, Kansas and Wisconsin in 1913, and recently the "Kenyon Bill"—an Injunction and Abatement Law for the District of Columbia—passed the United States Senate by unanimous consent.

The object of this law is to place the responsibility for the existence of disorderly houses upon the owners and agents of the property. To-day it is the property owner who realizes large profits from commercialized vice; it is the property owner or his agent who frequently encourages the use of houses for such purposes and it is the owner or agent who is most difficult to reach under our criminal statutes.

It is not the purpose of this leaflet to discuss the Injunction and Abatement Law of any particular state. The method of bringing the action, the legal procedure and many of the details of such a law must vary in the different jurisdictions. However, the underlying principles of all these acts are the same; a discussion of these, together with the presentation of some facts regarding the practical operations of the law will be of general value.

THE PRESENT SYSTEM.

Almost every state in the Union has a criminal statute directed against keeping houses of ill-fame and prostitution. The ineffectiveness of these laws is proved by the fact that houses of prostitution are being operated in almost every city and town of any considerable size. This is due in part to the following causes:

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1. *Changed conditions since these statutes were enacted.* Prostitution has become more commercialized, and this has resulted in the so-called white-slave traffic. Property owners and agents, as well as keepers, now realize large profits from buildings used for purposes of prostitution, whereas formerly the keepers alone were financially interested in the business.

2. *The character of the evidence demanded by the courts which makes it difficult to secure convictions under these laws.* Some courts have ruled that the general reputation of the house is not competent to establish the fact that it is a house of ill-fame. Indeed, courts have required evidence of immoral acts occurring on the premises, such evidence being difficult to secure without the witnesses being a party to the commission of a crime.

3. *The inadequate and ineffective sentences which generally follow convictions under these statutes.* Fines instead of jail sentences are imposed, and these merely stimulate the keepers to increase their business rather than to suppress it. Sometimes courts impose sentences of this nature even when the records show that the defendant has been convicted several times of keeping a disorderly house.

4. *The impossibility under these statutes of holding the owner responsible for the improper use of his property.* Keepers and proprietors of houses of ill-fame may be prosecuted under our present laws, but property owners and agents, who frequently encourage the use of their property for immoral purposes, are most difficult to reach and so escape punishment.

THE INJUNCTION AND ABATEMENT LAW.

This law first declares houses of ill-fame, assignation and prostitution to be nuisances. That such places are nuisances is a recognized principle of the English Common Law (See American and English Encyclopedia of Law, Volume 9, page 509, and the case of Jacobowsky vs. People 1875 6 Hun N. Y. 524). Some states already have statutes declaring places of this nature to be nuisances. (Massachusetts Statutes 1902 page 859, New Hampshire Statutes 1901 page 670). It is within the power of the states legislatures to declare what constitutes a nuisance, and a statute

which states that houses of ill-fame, assignation and prostitution are nuisances is valid and constitutional. (See State vs. Beardsley 1899, 108 Iowa 396. Com. vs. Howe, Mass. 13 Gray 26, and American and English Encyclopedia of Law, Volume 21, page 739). In the case of Pon vs. Wittman (1905) 147 Cal. 292, the Supreme Court of California said:

“These houses are common or public nuisances, their maintenance directly tends to corrupt and debase public morals, to promote vice and to encourage dissolute and idle habits, and the suppression of nuisances of this character is one of the important duties of government.”

The Injunction and Abatement Law declares that whoever establishes, maintains, owns, or leases a place used for purposes of prostitution shall be guilty of maintaining a nuisance. Under this provision, owners, agents and lessees, as well as keepers and occupants, are made responsible for the manner in which the property is used, and the fact that the law does not require knowledge of the unlawful use on the part of the owner does not render it unconstitutional. (Commonwealth vs. Howe, Mass. 13 Gray 26).

The action under this law is brought in a court of equity to enjoin and abate the nuisance. Courts of equity have always exercised jurisdiction over suits to enjoin and abate nuisances (See American and English Encyclopedia of Law, Volume 21, page 703). The advantages of a suit in equity over a criminal action are principally the following:

1. In equity proceedings the trial is before a judge, or court of judges, while in criminal prosecution it is before a jury.

2. In suits at equity either party has the right of appeal, while in criminal cases only the defendant may take his case to a higher court.

3. In criminal prosecutions a defendant may avoid the judgment of the court by forfeiting bail, but in injunction proceedings the judgment is directed primarily against the property on which the nuisance is kept and cannot be avoided by any such act on the part of the defendant.

The action to enjoin and abate the nuisance may be brought by the prosecuting attorney or by a citi-

zen or tax-payer. Thus the public is afforded a means of proceeding against these houses and their owners without relying upon prosecutors or police officials.

The citizen or prosecuting attorney begins his action by filing a petition (or complaint) as in any other civil action, except that such petition is in the name of "The People" rather than in his own name. He requests the court to grant a temporary injunction during the pendency of the suit and a permanent injunction after final hearing.

The temporary injunction does not issue against the premises. All that is contemplated at the time it is granted is the restraining of the owner and occupant from conducting the nuisance during the trial. (See *Gray vs. Stienes* 1886 69 Iowa 124). In criminal prosecutions against disorderly houses the defendant endeavors to secure as many delays and continuances as possible that he may conduct the nuisance during the pendency of the trial. But under the Injunction and Abatement Law this is impossible. Should the defendant fail to appear when the case is called in court, or secures a postponement of the preliminary hearing, the temporary injunction is granted. This is in accordance with the customary procedure in injunction suits; as long as the defendant is served with notice (and service of notice is provided for in this law) he cannot contend that this practice is unusual or unconstitutional. (See *Littleton vs. Fritz*, 65 Iowa 488, 22 N. W. 641, 54 Amer. St. Rep. 19 and *State vs. Jordan*, 72 Iowa 377, 34 N. W. 285).

The action for the permanent injunction is tried at the term of court following the issuance of the preliminary injunction, and by reason of the fact that the action is in the name of "The People" it is given in most states a preference over other cases on the calendar.

There is a provision in the law to the effect that the general reputation (or common fame) of the place shall be competent evidence to prove the existence of the nuisance. Ordinarily legislatures have the power to establish or change rules of evidence (see *Cooley's Constitutional Limitations* 1903 pages 409-410); and it is well settled that they may provide that the general reputation of the place shall be admissible to prove the existence of a nuisance. (See *State vs. Waldron* 1888 16 R. I., page

191; People vs. Pasquale 1912, 206 N. Y. 598 and cases cited under note 70 of 14 Cyc. page 504).

Precaution is taken against the wrongful use of the law and against discontinuance of an action through improper influence.

If the nuisance is proved, an injunction issues which permanently and perpetually enjoins the defendant from conducting the nuisance on the premises, and further enjoins the occupancy or use of the premises for any purpose for a period of one year.

In some states the law provides that a similar injunction shall issue where any person shall have been convicted criminally of keeping a disorderly house.

If an injunction, either temporary or permanent, is granted and the defendant violates it, he is guilty of contempt of court and may be fined or imprisoned. It is within the authorized power of the state legislatures to provide for the punishment of the person who is guilty of contempt of court, but the violation of an injunction constitutes contempt of court regardless of legislative enactment to that effect. (See Volume 16 of American and English Encyclopedia of Law, page 436, and Jordan vs. Circuit Court 1887, 69 Iowa 177).

As a part of the judgment on final hearing an order of abatement is entered by which the contents of the buildings are sold as chattels under execution and the building is closed for one year unless sooner released by order of the court. It is entirely within the power of the legislature to provide for the abatement of the nuisance after its existence has been proved (See State vs. Jordan 1887 72 Iowa 377) and the defendant is not deprived of his property without due process of law by the order which directs the sale of the contents of the house. In the case last cited, this identical objection was raised to the Liquor Injunction and Abatement Law of the state of Iowa. The court states, "If the defendant should, through the exercise of the power of chancery in abating the nuisance which she maintained, be deprived of property, it will be by due process of the law administered in courts of chancery."

When the use of the property has been denied by order of the court, the owner, agent or lessee of the property may appear and file a bond for a

definite amount or for the full value of the property stating that he will abate the nuisance and the court, if satisfied of his good faith, may deliver the premises to such owner, agent or lessee who may use it for a legitimate purpose. This section is intended to cover the situation where suit has been commenced and the owner, agent or lessee, without going to the trial, pleads guilty of the charge, or after being tried is found guilty, and is willing peaceably to discontinue the nuisance.

Under the law in some states a tax is assessed against the property whereon such nuisance is conducted and against its owner or agent. There is much diversity of opinion regarding the propriety, as well as the constitutionality, of this tax, and for this reason it has been omitted in some of the more recent bills.

Several decisions have been rendered in the state of Iowa on the validity of the principal provisions of the Liquor Injunction and Abatement Law. In the case of Littleton vs. Fritz (65 Iowa 488; 22 N. W. 645; 54 Am. St. Rep. 19), the point was raised that such a law is unconstitutional in that it deprived the defendant of the right of trial by jury. The court said that the jurisdiction of equity to enjoin and abate nuisances was of very ancient origin and since it is the rule in courts of equity for the chancellor to try cases without a jury, the defendant could not be heard to say he was being deprived of his right of trial by jury. In other words, a defendant does not have the right of trial by jury in equity and therefore is not deprived of such a right under a statute which creates an offense over which equity has jurisdiction.

In the same case it was held that the Injunction and Abatement Law was not unconstitutional because it attempted to enforce a criminal law by a civil action. On this proposition the court said: "One maintaining a nuisance may not only be punished in a criminal proceeding but a civil action at law to recover damages in a proper case, and an action in equity to restrain the nuisance, may be prosecuted against him."

It was further argued that the Injunction and Abatement Law was unconstitutional because it authorized an action to be brought by any citizen of the county, without showing that he was espe-

cially damaged by the nuisance. The court decided that this was no reason for holding the law unconstitutional, saying, "It is surely within the power of the legislature to designate the persons at whose suit a nuisance may be enjoined and abated."

Finally, it was argued that a temporary injunction could not be issued against the defendant before a conviction had taken place. This point was also decided against the defendant.

Several of the questions decided in the Littleton case came before Supreme Court of Iowa again in the case of State vs. Jordan (72 Iowa 377), and were disposed of in like manner. The Jordan case cited with approval Littleton vs. Fritz.

All the foregoing conclusions apply by analogy to the law now under consideration.

SUMMARY OF THE LAW.

I. Houses of ill-fame, prostitution and assignation declared to be nuisances.

II. Citizens or taxpayers and prosecuting attorney given right to institute proceedings for abatement of nuisance.

- a. Action is in Court of Equity.
- b. After notice and hearing temporary injunction issues immediately suppressing nuisance.
- c. After trial permanent injunction and order of abatement issues.
- d. General reputation competent evidence.

III. Violation of injunction a contempt of court.

IV. Sheriff executes abatement order, sells chattels and closes the place for one year.

V. Owner may secure release of closing order by filing bond for an adequate amount, which bond is liable to forfeiture if nuisance is re-established.

VI. Tax assessed against the property and its owner in some states.

RESULTS AND ENDORSEMENTS OF THE INJUNCTION AND ABATEMENT LAW.

The Injunction and Abatement Law has received the fairest test in the state of Iowa where it was first enacted. The following statement in reference to the past and present situation in Iowa is by former Attorney General Byers:

"Previous to the passage and taking effect of chapter 214, acts of the thirty-third general assembly, which pro-

vides for the issuance of a permanent and temporary injunction against houses of assignation; and also chapter 78, acts of the thirty-third general assembly, which provides for the removal of county attorneys, sheriffs, mayors, police officers, marshals, and constables by a summary process for willful or habitual neglect or refusal to perform the duties of their respective offices, there had been in almost every large city in this State what is known as a red-light district. Since the taking effect of these acts this has been entirely abolished, and, so far as I am advised and able to learn, there is now no organized segregated district in the State where this evil is carried on under the protection or acquiescence of local authorities."

Extract from letter of E. C. Lytton, Secretary to Mayor of Des Moines, Iowa:

"Prostitution has very materially decreased since the enactment of the Injunction and Abatement Law. Officers of our police department assert that while there were in the old days of the 'Red Light District' perhaps three hundred prostitutes in our city, there are now not more than one-fourth that number. Enemies of suppression delight in sending out reports to the effect that while the segregated district has been abolished, we still have as many or more prostitutes in our city, the new policy merely resulting in scattering them throughout the city. Contrary to this, we have not only gotten rid of the district, but have also reduced the number in the residence districts in a large degree. Property owners are more careful in choosing tenants when they know that the 'Cosson Law' (the Injunction and Abatement Law of Iowa) may be invoked at any time. The law has been a great aid in cleaning our city."

Statement of F. T. Van Liew, of the Department of Public Safety, Des Moines, Iowa:

"We have prepared an extract from the Injunction and Abatement Law and whenever rumors or complaints are received we send an officer immediately to serve a copy of this extract of the law upon the owner of the place complained about. This latter method has been in use a short time, but has produced splendid results in every instance."

The following questions were asked Chief of Police J. W. Jenney, of Des Moines, Iowa:

First. In your estimation, has the number of houses of prostitution materially decreased in your city since the enactment of the Injunction and Abatement Law?

Second. If your answer to question one is in the affirmative, please state whether or not there has been a material increase in the number of assignation places, rooms in which prostitution is carried on, etc.

These questions were answered as follows:

Question No. 1. "Yes, police department reports show a decrease of about seventy-five per cent."

Question No. 2. "I do not think that there has been any increase, but in fact believe that there has been a considerable decrease."

Statement of Attorney General Cossen of Iowa:

"The justification for doing away with the jury system in matters of this nature, and seeking the injunctive remedy, a proceeding in equity, is bottomed upon the fundamental fact that the state which passes a law, inherently has and ought to have the power to enforce that law. The injunctive remedy gives to the State this right, and no other method has yet been devised which so effectively gives to the state this power to enforce its own statutes, and yet at the same time violates none of the fundamental rights of the defendant."

"Conditions in the State of Iowa with reference to houses of assignation and prostitution and the social evil in question are better to-day than ever before in the history of the state."

"I believe that every state in the Union should have a law similar to the Red Light Injunction and Abatement Law in Iowa."

The Injunction and Abatement Law has been in effect in Nebraska only since April, 1911. Therefore it is somewhat difficult to determine what has been accomplished under it in that state.

Perhaps Hon. Grant G. Martin, the Attorney General of Nebraska, is in a position to know more about the effect of this law in his state than any other person. In a letter dated April 10, 1912, he said:

"In reply to your request of the 8th instant, for a statement of this department as to the law of this state relative to the suppression of prostitution and assignation houses, and as to its enforcement, I have to state that our last legislature passed a law known as the Albert Law, which is modeled after the law of Iowa, the object of which was to enable injunctions to be issued against persons who conduct houses and places of this character and to assess a tax against the person maintaining said nuisance and against the owner of the building.

"The policy of this department and that of the governor of the state, has been to act in concert with the various county prosecutors of the state and to see that this law was vigorously enforced. In the larger cities of this state, to wit, Lincoln and Omaha, there is no segregated district as a result of this law and its enforcement. Perhaps it is due to the authorities of the city of Lincoln to state that a successful effort had been made to suppress this vice prior to the passage of the law, but in the city of Omaha, actions have been brought,

and I am now informed by the county prosecutor, that the segregated district has been abandoned. Generally speaking, I think this is true of all the smaller cities of the state. If any such district exists in any of the towns of the state, my attention has not been called to the same."

Hon. Howard Kennedy, judge of the District Court of Omaha, Nebraska, says in reference to the Injunction and Abatement Law:

"Personally, I think the measure, if vigorously enforced, will prove a considerable advantage over prior legislation, and that it is a step in the right direction."

Hon. John P. English, county attorney of Douglas County, Nebraska, in which Omaha is located, says:

"A 'red light' district has been tolerated in Omaha for thirty years or more. In this district were a great many houses of prostitution, and some of the buildings were of an elaborate and expensive character. Proceedings were brought to enforce the Albert Law (the Injunction Law of Nebraska) about the first of June last, and this office started a number of suits against some of the prominent houses in the 'Red Light' district and some outlying houses of assignation. The result of these suits was the immediate abandonment of the 'Red Light' district. The houses were vacated and most of them have remained closed. The 'Red Light' district is practically a thing of the past in this city."

OTHER ENDORSEMENTS AND COMMENTS.

Dr. David Starr Jordan, President Leland Stanford University:—

"There is no more important matter to come before the civilized nations than that of the absolute extermination of 'red light' districts of our cities. This is not a question of morals, primarily. It is that of self-protection of civilization itself.

"Thus far the only safety in dealing with the plague is to abolish the plague spots. To destroy the center of infection, to deal with the Red Plague, we must destroy the houses of prostitution. To abolish these houses, the only sure way is to attack their owners."

Hon. Stanley W. Finch, special United States Commissioner for the suppression of the "white-slave traffic," states in reference to the Kenyon Bill (the proposed Injunction Law for the District of Columbia):

"I note that the law under consideration is somewhat similar to the Iowa Injunction and Abatement Law, which in so far as I have been able to ascertain seems to

be a very effective statute, and one which personally I should be very glad to see enacted in other parts of the country."

The Chicago Vice Commission sent a committee to Iowa to investigate this law, and reports in the following language:

"We recommend the enactment of state laws, whereby a house of prostitution may be declared a public nuisance and containing provisions expressly giving to any citizen the right to institute simple and summary proceedings in equity for the abatement of the nuisance."

The Vice Commission of Portland, Oregon, in its report of December, 1912, recommended that the City Council petition the Legislature to pass an Injunction and Abatement Law. Introductory to its recommendation the Commission states:

"No combination of the law, the courts and the police can ever drive the social evil from a city of 200,000 inhabitants, but an intelligent and active determination to enforce the laws can do much to make the business of vice both hazardous and unprofitable. To this end the laws should be simple and comprehensive, the courts efficient, and the police intelligently active in administration and execution."

A FORM BILL.

Title

AN ACT

To declare houses of ill-fame, places of lewdness, assignation and prostitution to be nuisances, to enjoin and abate the same, to enjoin the person or persons who conduct or maintain the same, and any owner, agent, lessee or occupant of a house or place used for such purposes.

ENACTING CLAUSE.

The People of the State of _____ represented in Senate and Assembly, do enact as follows:

SECTION I. SHORT TITLE.

The short title of this Act shall be the "The Injunction and Abatement Law."

SECTION II. HOUSES OF ILL-FAME, ETC., DECLARED NUISANCES.

Any house, building, erection, place or any separate part or portion thereof, or the ground itself,

in or upon which any lewdness, assignation or prostitution is conducted, practised, permitted, carried on, or exists, and the fixtures, furniture and movable contents therein are declared a nuisance; and whoever shall erect, establish, permit, continue, maintain, own, lease, or sub-lease any house, building, erection, place or portion thereof, used for such purpose, shall be guilty of maintaining a nuisance and the same shall be enjoined and abated as provided in this Act.

SECTION III. THE ACTION—HOW BROUGHT.

When a nuisance as defined in this Act, is created, conducted, kept, maintained, permitted or exists, the *Attorney or any citizen of the county in which said nuisance is created, conducted, kept, maintained, permitted or exists, may maintain an action in equity in the name of the People of the State of upon the relation of such Attorney or citizen to perpetually enjoin such nuisance, the person or persons creating, conducting, keeping, maintaining or permitting the same, and to enjoin for one year thereafter the use by any owner, agent, lessee or occupant of the house, building, erection, place or ground in or upon which said nuisance is alleged to be conducted, kept, maintained, permitted or exists.

SECTION IV.—FILING THE PETITION, NOTICE, TEMPORARY INJUNCTION.

In an action brought under this Act, a petition shall be filed with the **Court or any judge thereof alleging the existence of a nuisance as defined in this Act.

A copy of such petition and proposed order, together with notice of the time and place of the hearing of the application, shall be served upon the owner, agent or occupant of the house, building, erection, place or ground in or upon which said nuisance is alleged to exist. Service of notice of said action shall be made as directed by the court or judge at least five days before the hearing on said application. If the hearing is then continued at the

* "State's," "District" or "Prosecuting" Attorney, as the case may be.

** Here insert the court having jurisdiction of injunction suits or of suits in equity generally.

instance of the defendant, a temporary writ of injunction as prayed shall issue as a matter of course. If upon preliminary hearing the allegations be sustained to the satisfaction of the court or judge, such court or judge shall issue a temporary writ of injunction pendente lite, without bond, restraining any person from continuing the said nuisance.

SECTION V.—THE TRIAL.

The action for the permanent injunction shall be triable at the term of the *Court immediately following the issuance of the temporary injunction as provided in this Act, and in such action evidence of the common fame and general reputation of the place shall be competent evidence to prove the existence of the nuisance. If the petition is filed by a citizen, it shall not be discontinued except upon the sworn statement of the petitioner or his attorney, setting forth the reason why the action should be discontinued, and no application for discontinuance shall be granted, nor shall the action be dismissed upon default, unless it shall have been approved in writing or in open court by the **Attorney of the county wherein such action is pending. If the court rejects the application for the discontinuance, it shall direct the **Attorney to prosecute such action to judgment. If any such action shall be continued more than one term of court, any citizen, or the **Attorney of the county wherein the action is pending, may be substituted for the petitioner and prosecute such action to judgment. If the action is brought by a citizen and the court finds that there was no reasonable ground of cause for said action, the costs thereof may be taxed against such petitioner.

SECTION VI.—ISSUANCE OF PERMANENT INJUNCTION.

If the existence of the nuisance be established upon trial as provided, an injunction shall issue permanently and perpetually enjoining the defendant from conducting, keeping, maintaining, permitting or continuing the nuisance complained of

* Here insert the court having jurisdiction.

** Here insert the kind of prosecutor—"State's," "District," etc.

on the said premises and further enjoining the occupancy or use of the house, building, erection, place or ground for one year from the date of the issuing of such injunction.

SECTION VII.—ISSUANCE OF INJUNCTION UPON CRIMINAL CONVICTION.

If any person be convicted of a violation of section *of the Penal Law (or Code) of this state the **Attorney of the county in which such conviction shall have occurred shall present a certified copy of the record of such conviction to the ***Court or any judge thereof, and an injunction shall issue forthwith as provided in this Act.

SECTION VIII.—CONTEMPT OF COURT—PUNISHMENT.

Any violation of any injunction issued under this Act shall constitute a contempt of court, for which the punishment shall be either a fine of not less than two hundred dollars nor more than one thousand dollars, or imprisonment of not less than thirty days nor more than twelve months, or both such fine and imprisonment in the discretion of the court or judge.

SECTION IX.—ABATEMENT OF THE NUISANCE.

If the existence of the nuisance be established as provided in this Act, an order of abatement shall issue as part of the judgment. Such order shall direct the removal from the house, building, erection, place or ground of all fixtures, furniture or movable property used in maintaining and conducting the nuisance and shall direct the sale thereof in the manner provided for the sale of chattels under execution. For removing and selling such property the sheriff or marshal shall be entitled to charge and receive the same fees as he would for levying upon and selling like property under execution.

* Here insert the section number of the criminal statute directed against keeping or leasing houses of ill-fame.

** Here insert kind of prosecutor—"State's," "District," etc.

*** Here insert the court having jurisdiction over suits in equity.

SECTION X.—CLOSURE OF PREMISES.

An order of abatement issued under the provisions of this Act shall direct the effectual closing and vacating of the house, building, erection, place or ground against its use for any purpose whatsoever, and so keeping it closed for a period of one year unless sooner released as provided in this Act. For the service of closing and vacating such house, building, erection, place or ground, and keeping same closed, the court or judge shall allow the sheriff or marshal a reasonable fee.

SECTION XI.—DISPOSAL OF PROCEEDS OF SALE.

The proceeds of the sale of the fixtures, furniture or movable property under the provisions of this Act shall be applied to the payment of the costs of the action and the abatement of the nuisance, and the balance, if any, shall be paid to the defendant.

SECTION XII.—PENALTY OF USING PREMISES.

Any person who shall break, enter or use any house, building, erection, place or ground vacated or closed in accordance with this Act shall be guilty of contempt of court, for which the punishment shall be the same as provided for a violation of an injunction issued under this Act.

SECTION XIII.—RELEASE OF PROPERTY.

If the owner, agent or lessee of any house, building, erection, place or ground against which an injunction has been issued under this Act shall appear before the *Court, or any judge thereof, and pay all costs of the proceeding and file a bond as hereinafter provided, the court or judge, if satisfied of the good faith of the applicant, may vacate the injunction in so far as it relates to the use of such property, and cancel the order of abatement and direct said premises to be delivered to said owner, agent or lessee. Such bond shall be to the People of the State of and conditioned that the nuisance shall be abated immediately and shall not be re-established or kept therein within a period of one year thereafter. Such bond shall be in the penal sum of the amount of the full value of the property as determined by the latest tax assess-

* Here insert the court having jurisdiction over injunction suits.

ment. Said bond shall be executed by such owner, agent or lessee, and by at least two sureties, severally owning within the county or city wherein the nuisance existed and was maintained unencumbered real estate of the value of not less than the penalty of the bond, and who shall be residents of such county or city; or, instead of such sureties, by a corporation duly authorized to issue surety bonds by the laws of this state. If the court or any judge thereof of a county in which such bonds shall have been given, in accordance with the provisions of this section, has good cause to believe that the conditions of such bond have been violated, such court or judge shall direct the *Attorney of such county to bring an action for the recovery of the full amount of such bond.

SECTION XIV.—RELEASE OF PROPERTY DOES NOT AFFECT OTHER LIABILITIES.

The release of the house, building, erection, place or ground under the provisions of this Act shall not release it from any judgment, lien, penalty or liability to which it otherwise may be subjected by law.

SECTION XV.—THE TAX.**

Whenever a permanent injunction issues against any person for maintaining a nuisance as herein defined, or against any owner or agent of the building kept or used for the purposes prohibited by this Act, there shall be assessed against said building and the ground upon which the same is located, and against the person or persons maintaining said nuisance, and the owner or agent of said premises, a tax of three hundred dollars. The assessment of said tax shall be made by the assessor of the city, village or township in which the nuisance exists and shall be made within three months from the date of the granting of the permanent injunction. In case the assessor fails or neglects to make said assessment the same shall be made by the sheriff of the county, and a return of said assessment shall be made to the county treasurer. Said tax may be enforced and collected in the manner prescribed for the collection of taxes

* Here insert kind of prosecutor.

** This section is omitted in some of the more recent bills.

under the general revenue laws and shall be a perpetual lien upon the property, both personal and real, used for the purpose of maintaining said nuisance, and the payment of said tax shall not relieve the person or building from any penalties provided by law, and when collected shall be applied and distributed in the manner prescribed by law for the application and distribution of moneys arising from the collection of fines and penalties in criminal cases, excepting that twenty per cent of the amount so collected shall be paid by the treasurer to the attorney representing the state in the injunction action at the time of final judgment.

SECTION XVI.—WHEN ACT TAKES EFFECT.

This Act shall take effect immediately.

The American Vigilance Association, through its Department of Legislation, will co-operate with a representative of any state desiring to enact an Injunction and Abatement Law. Communications should be addressed to the Eastern Office of the Association, 156 Fifth Ave., New York City.



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